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BILL



ANALYSIS

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House Bill 4685 (Substitute H-4 as passed by the House)
Sponsor: Representative Earl Poleski
House Committee: Transportation and Infrastructure
Senate Committee: Finance

Date Completed: 10-20-15

CONTENT

The bill would amend the General Sales Tax Act to modify requirements for the prepayment of sales tax on the purchase of fuel (gasoline or diesel fuel) from a refiner, pipeline terminal operator, or marine terminal operator, as follows:

- For an in-State purchase or shipment, the bill would make an exception to the requirements for an exporter or supplier for immediate export out of the State.**
- For an out-of-State purchase or receipt for shipment into Michigan, the bill would allow an exception for a refiner or terminal operator if the purchase or receipt were part of a bulk transfer.**

The bill would take effect on April 1, 2016.

Currently, at the time of purchase or shipment from a refiner, pipeline terminal operator, or marine terminal operator, the Act requires a purchaser or receiver of fuel to prepay a portion of the sales tax to the refiner or terminal operator.

Under the bill, beginning April 1, 2016, at the time of purchase or shipment in this State from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of fuel, other than an exporter or supplier for immediate export, as evidenced by the terminal's shipping papers or bill of lading, would have to prepay a portion of the sales tax to the refiner or terminal operator.

Currently, if the purchase or receipt of fuel is made outside of this State for shipment into and subsequent sale within the State, the purchaser or receiver, other than a refiner, pipeline terminal operator, or marine terminal operator, must make the prepayment directly to the Department of Treasury.

Under the bill, this exception for a refiner or terminal operator would apply in the case of a purchase or receipt of fuel as part of a bulk transfer.

The rates of prepayment for gasoline and diesel fuel under the bill would be the same as the rates under current law.

The bill would define "bulk transfer" as a transfer of fuel from, or purchase for resale by, a refiner, pipeline terminal operator, or marine terminal operator to or from another refiner, pipeline terminal operator, or marine terminal operator through pipeline tender or marine delivery, including pipeline movements of fuel or marine vessel movements of fuel. "Bulk transfer" also would include a transaction involving the transfer by any transportation means to, or purchase for resale by, a refiner, or terminal operator of alcohol to be used exclusively for blending with gasoline. To constitute a bulk transfer, fuel transferred to, or purchased for

resale by, a refiner or terminal operator would have to be delivered to, or otherwise remain within, the bulk transfer terminal system before removal across the rack.

"Bulk transfer terminal system" would mean the fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals, including fuel storage tanks and fuel storage facilities that are part of a refinery, boat terminal transfer, or terminal owned, operated, or controlled by a refiner, marine terminal operator, or pipeline terminal operator.

The bill would define "export" as to purchase or receive fuel in this State for immediate shipment and subsequent sale outside of the State. "Exporter" would refer a person that exports fuel and has an exporter's license under the Motor Fuel Tax Act.

Currently, "purchase" or "shipment" does not include an exchange of fuel or an exchange transaction between refiners, pipeline terminal operators, or marine terminal operators. The bill provides, instead, that "purchase", "receipt", or "shipment" would not include a two-party exchange, a bulk transfer, or a receipt of fuel as part of a bulk transfer. "Two-party exchange" would mean a transaction, including a book transfer, in which fuel is transferred from one supplier to another supplier and all of the following occur:

- The transaction includes a transfer of fuel from the person who holds the original inventory position for the fuel in fuel storage tanks as reflected in the records of the refiner.
- The exchange transaction is completed before removal across the rack by the receiving supplier.
- The refiner or terminal operator in its books and records treats the receiving exchange party as the supplier that removes the fuel across a rack for purposes of reporting the transaction to the Department of Treasury under the Motor Fuel Tax Act.

Currently, "refiner" means a person that manufactures or produces fuel by any process involving substantially more than the blending of fuel. Under the bill, the fuel would have to be manufactured or produced at a refinery and the person would have to be a taxable fuel registrant that is a refiner for purposes of 26 CFR 48.4081-1. (That Federal rule defines terms for purposes of the tax on motor fuel the Internal Revenue Code.)

The bill would define "refinery" as a facility used by a refiner to produce fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which fuel may be removed by pipeline or marine vessel or at a rack. "Rack" would mean a mechanism for delivering fuel from a refiner, a pipeline terminal operator, or a marine terminal operator into a railroad tank car, a transport truck, a tank wagon, or the fuel supply tank of a marine vessel.

The bill would define "terminal" as a fuel storage and distribution facility that is registered as a qualified terminal by the Internal Revenue Service; is supplied by pipeline or marine vessel; and has a rack from which fuel may be removed.

MCL 205.56a

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no effect on State or local revenue because the bill would not affect tax liabilities. However, by altering the requirements for prepayment of any liabilities, the bill could affect the timing of when the State would receive sales tax revenue associated with motor fuel sales.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.